

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 44

Introduced by Brashear, 4

Read first time January 7, 1999

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to crimes and offenses; to amend section
- 2 28-201, Revised Statutes Supplement, 1998; to provide
- 3 penalties for criminal attempt; and to repeal the
- 4 original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-201, Revised Statutes Supplement,
2 1998, is amended to read:

3 28-201. (1) A person shall be guilty of an attempt to
4 commit a crime if he or she:

5 (a) Intentionally engages in conduct which would
6 constitute the crime if the attendant circumstances were as he or
7 she believes them to be; or

8 (b) Intentionally engages in conduct which, under the
9 circumstances as he or she believes them to be, constitutes a
10 substantial step in a course of conduct intended to culminate in
11 his or her commission of the crime.

12 (2) When causing a particular result is an element of the
13 crime, a person shall be guilty of an attempt to commit the crime
14 if, acting with the state of mind required to establish liability
15 with respect to the attendant circumstances specified in the
16 definition of the crime, he or she intentionally engages in conduct
17 which is a substantial step in a course of conduct intended or
18 known to cause such a result.

19 (3) Conduct shall not be considered a substantial step
20 under this section unless it is strongly corroborative of the
21 defendant's criminal intent.

22 (4) Criminal attempt is:

23 (a) A Class II felony when the crime attempted is a Class
24 I, Class IA, ~~or~~ Class IB, Class IC, or Class ID felony;

25 (b) A Class III felony when the crime attempted is a
26 Class II felony;

27 (c) A Class IIIA felony when the crime attempted is
28 assault in the first degree under section 28-308, sexual assault in

1 the second degree under section 28-320, manufacturing,
2 distributing, delivering, dispensing, or possessing with intent to
3 manufacture, distribute, deliver, or dispense controlled substances
4 listed in Schedule I, II, or III of section 28-405 under section
5 28-416 except for an exceptionally hazardous drug, incest under
6 section 28-703, child abuse under subsection (5) of section 28-707,
7 assault on an officer in the second degree under section 28-930, or
8 assault by a confined person with a deadly or dangerous weapon
9 under section 28-932;

10 (d) A Class IV felony when the crime attempted is a Class
11 III felony not listed in subdivision (4)(c) of this section;

12 (e) A Class I misdemeanor when the crime attempted is a
13 Class IIIA or Class IV felony;

14 (f) A Class II misdemeanor when the crime attempted is a
15 Class I misdemeanor; and

16 (g) A Class III misdemeanor when the crime attempted is a
17 Class II misdemeanor.

18 Sec. 2. Original section 28-201, Revised Statutes
19 Supplement, 1998, is repealed.